

### REMARKS

This Request for Reconsideration is filed in response to the Final Action of July 28, 2005 in which claims 1-27 were rejected on various grounds.

Applicant notes that the Examiner has issued a final Office Action in this case, despite the fact that new rejections are raised based on different prior art in the present Office Action. The Office Action states that the applicant's amendment necessitated the new grounds of rejection presented in this Office Action. However, applicant does not believe this to be the case. In response to the previous Office Action, the independent claims were amended in order to insert a further feature defining that the characteristic parameter describes excess path lengths caused by obstacles in the environment by means of one of a number of discrete levels. Thus, the scope of the claims was narrowed by these amendments. Accordingly, if the rejections raised in the present Office Action were justified in applying to the amended set of claims, they must also have applied equally to the previous, unamended set of claims. Consequently, the amendment did not necessitate the new ground of rejection.

MPEP 706.07(a) states that where a new ground of rejection is introduced that is not necessitated by the applicant's amendment of the claims, the action should not be made final. It appears that the finality of the present action is contrary to that which is prohibited by MPEP 706.07, namely switching from one set of references to another in rejecting in successive actions claims of substantially the same subject matter. It is therefore believed that the finality of the present Office Action should be withdrawn and applicant respectfully requests that this be done.

In the Office Action, certain claims are rejected on the grounds of anticipation by Dalley (U.S. 6,173,186). Applicant does not agree that Dalley discloses all of the features of the present independent claims.

First of all, Dalley does not disclose a method of determining a distance between a transmitting station and a receiving station as required by claim 1. Dalley relates to a method for estimating a cell radius. This is a fundamental difference between Dalley and the present application because Dalley's method

is purely directed to determining a cell radius such that the network can be planned more efficiently (for instance by siting base stations at the most appropriate location and with an appropriate transmitter height). In contrast, the present invention may be employed in providing location data of a mobile station, i.e. in determining the distance between the mobile station and a base station.

Dalley does describe "classifying cells according to geomorphology". However, the fundamental difference is that in Dalley this geomorphological classification is not used in a calculation of a distance between a transmitting station and a receiving station, or in any other way in a location determining method. In the method of Dalley the cell geomorphology classification is merely used together with an intercept point and a planned cell antenna height in order to give an estimate of cell radius for a cell of a particular geomorphological classification (see column 7 of Dalley, in particular lines 43 to 56).

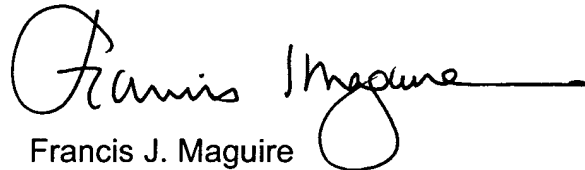
The context in which Dalley refers to obtaining location data is in terms of road testing cells, in which an operator drives along roads taking signal strength and location readings at predetermined intervals. Dalley clearly does not disclose that the cell geomorphology is taken into account in order to get an accurate location reading. Dalley says nothing about making location determinations other than by standard methods. The location readings are used merely for determining the points at which signal strengths are calculated in order to obtain estimates of cell radius in combination with cell geomorphology.

Thus, the present method is fundamentally different from that of Dalley and it does not anticipate claims 1, 3-8, 10-12, 15, 17-24, or 26-27. Withdrawal of the novelty rejection thereof is requested.

Regarding the obviousness rejection of claims 2, 9, 13-14, 16, and 25 an additional document Hilsenrath (U.S. 6,026,304) has been applied. However, it also does not disclose a distance determining method in which a characteristic parameter describing line of sight conditions of the radio propagation environment of a receiving station is determined. Applicant therefore submits that the rejected claims are nonobvious and inventive over the applied prior art of Dalley and Hilsenrath. Withdrawal thereof is requested.

The objections and rejections of the Office Action of July 28, 2005, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1-27 to issue is solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Francis Maguire", followed by a horizontal line.

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